

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

November 25, 1997

DIVISION ONE

Court convened at 9:00 A.M.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., Masterson, J., Dunn, J. (Assigned), and S. Beaux, Deputy Clerk.

B113536 Upchurch et al.
 v.
 De Carlos et al.

Merits:

Argued by R. Wayne Patterson for appellants and by Vito A. Costanzo for respondents. Cause submitted.

B105343 Delgadillo
 v.
 Forssen

Merits:

Argued by Kent E. Mariconda for respondent and by Randolph M. Hammock for appellant. Cause submitted.

B108435 Unland
 v.
 Block

Merits:

Argued by Diane Marchant for appellant and by Sheilah Curtis for respondent. Cause submitted.

DIVISION ONE (Continued)

B109802 Miller et al.
 v.
 Broaderick et al.

Merits:
Argued by Mitchell W. Jacobs for appellants and by Robert L. Burge for respondent. Cause submitted.

B098810 Drisson Corporation
 v.
 Darakjian et al.

Merits:
Argued by Wendy Lascher for appellant and by Robert S. Gerstein for respondents. Cause submitted.

B106209 Loth
 v.
 Truck-A-Way Corporation et al.

Merits:
Argued by Mark G. Bonino for appellants and by William S. Hulsy for respondent. Cause submitted.

Justice Ortega leaves the bench.

B105433 Tarzana Independent Physicians Medical Group, Inc.
 v.
 Abrams

Merits:
Argued by Joel R. Bennett for appellant and by Karl W. Kime for respondent. Cause submitted.

B103917 First Republic Thrift & Loan
 v.
 Stewart Title Guaranty Co.

Merits:
Argued by William A. Logan for appellant and by M. Michele Lines for respondent. Cause submitted.

DIVISION ONE (Continued)

Justice Ortega resumes the bench.

B109799 Braswell
 v.
 Regency Health Services, Inc. et al.

Merits:
Argued by Thomas A. Collins for appellants and by Kimberly J. Laliberte
for respondent. Cause submitted.

B107557 Chiralia
 v.
 Pope
 In re Marriage of Pope

Merits:
Argued by Cornel Chiralia in propria persona and no appearance for
respondent. Cause submitted.

B107669 Johnson et al.
 v.
 Beckley Singleton Delanoy Jemison & List et al.

Merits:
Argued by William E. Johnson for appellants and by Barbara A. Buchholz
for respondents. Cause submitted.

Presiding Justice Spencer leaves the bench.

B108908 Rubin
 v.
 Stein et al.

Merits:
Argued by Rey Yang for appellant Roney and by Dana Pearlman for
respondents. Cause submitted.

DIVISION ONE (Continued)

B111206 Trout
v.
Federal Home Loan Mortgage Corp.

Merits:
Argued by John L. Flowers for appellant and by Robert Cipriano for respondent. Cause submitted.

B105272 Teaman et al.
v.
Wilkinson et al.

Merits:
Argued by Samy S. Henein for appellant and by M. Michele Lines for respondents. Cause submitted.

Justice Vogel leaves the bench.

B093740 Gomes
v.
The Regents of the University of Calif., et al.

Merits:
Argued by Barbara W. Ravitz for appellants and by for Daniel U. Smith. Cause submitted.

Presiding Justice Spencer resumes the bench.

Justice Masterson leaves the bench.

B100699 Stanley et al.
v.
Lockheed et al.

Merits:
Argued by Charles Fleishman and Tom Stanley for appellants, by Teresa Lujan for respondent City of Los Angeles and Patrick Mc Adam for respondent Lockheed. Cause submitted.

Court adjourned.

DIVISION TWO

B096548 Binkley, et al. (Not for Publication)

v.
City of Long Beach, et al.

The judgment of dismissal is affirmed, except with respect to the claims of defamation by respondents Bretza and Van Otterloo. With respect to those claims, the judgment is reversed with directions to grant leave to amend. Respondents other than Bretza and Van Otterloo shall recover their costs on appeal from plaintiffs; the parties shall otherwise bear their own costs.

Fukuto, Acting P.J.

We concur: Zebrowski, J.
 Ito, J. (Assigned)

B109482 People (Not for Publication)

v.
Chavarria

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

B102260 People (Not for Publication)

v.
Lee

The Court:

The judgment is affirmed.

Boren, P.J., Fukuto, J., Nott, J.

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DIVISION TWO (Continued)

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The judgment is affirmed.

Fukuto, J.

We concur: Boren, P.J.
 Ito, J. (Assigned)

B102917 People (Not for Publication)
v.
Ibarra

The Court:

The judgment is affirmed.

Fukuto, Acting P.J., Nott, J., Zebrowski, J.

DIVISION THREE

B104156 Movsessian, et al. (Not for Publication)
v.
Sav-On Drug Store, Inc. et al.

The judgment of dismissal is affirmed. American to recover costs on appeal.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

DIVISION THREE (Continued)

B092447 People (Not for Publication)
v.
Canjura and Caceres

The judgment as to appellant Caceres is modified to strike the section 1202.2, subdivision (a) (1) enhancements imposed with regard to his two attempted murder convictions, as alleged in counts two and three. In all other respects the judgment as to appellant Caceres is affirmed. The judgment as to appellant Canjura is affirmed.

Kitching, J.

We concur: Croskey, Acting P.J.
 Aldrich, J.

B107353 Miguel A. Estrada
v.
Workers' Compensation Appeals Board
Corporate Graphics, et al., Respondent

Filed order modifying opinion. (No change in the judgment.)

DIVISION FOUR

B105135 Chaet
v.
Quinto

(Not for Publication)

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Epstein, J.
Hastings, J.

DIVISION FIVE

B107073 People (Not for Publication)
v.
Derrick Lavell Ester

Judgment is modified to reflect that Ester was convicted on count 2 of violating section 12021, not section 12021.1, and that his sentence on that count is to run consecutively to the sentence on count 1. Pursuant to sections 18 and 1170.1, subdivision (a), the proper term for that consecutive sentence is one-third the mid-term sentence of two years for a violation of section 12021, or eight months, which must be doubled to one year and four months under Three Strikes (§ 667, subds. (c) (6), (c) (7), (e) (1)). The abstract of judgment is ordered modified accordingly. The judgment as modified is affirmed.

Jackson, J. (Assigned)

We concur: Turner, P.J.
 Armstrong, J.

B106266 People (Not for Publication)
v.
Jessie H. Fierro

The judgment is modified to stay the sentence for count five, driving with a blood alcohol level of .08 percent or more, pursuant to section 654. The stay is to become permanent when the remainder of defendant's sentence has been served. The judgment is affirmed in all other respects. The Superior Court Clerk is to prepare an amended abstract of judgment and forward it to the Department of Corrections.

Turner, P.J.

We concur: Grignon, J.
Armstrong, J.

DIVISION FIVE (Continued)

B109774 Theresa J. Cantine (Not for Publication)
 v.
 Marshall Jackson

The judgment of dismissal is affirmed. Defendant Marshall Jackson is to recover his costs on appeal from plaintiff Theresa J. Cantine.

Grignon, Acting P.J.

I concur: Godoy Perez, J.
I dissent: Turner, P.J. (Opinion)

DIVISION SIX

B101215 People (Not for Publication)
 v.
 Lopez

The case is remanded for resentencing. The judgment is otherwise affirmed.

Coffee, J.

We concur: Gilbert, Acting P.J.
 Yegan, J.

B104216 People (Not for Publication)
 v.
 Robinson

Filed order denying petition for rehearing.

DIVISION SEVEN

B109040 People
 v.
 Zamudio

Filed order granting petition for rehearing.

DIVISION SEVEN (Continued)

B106306 California Rifle & Pistol Assoc. (Not for Publication)
 v.
 City of West Hollywood

That part of the stipulated judgment denying the motion for attorney's fees is affirmed. Respondents are entitled to costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
 Neal, J.

B114523 Digiacinto (Certified for Publication)
 v.
 Ameriko-Omserv Corporation

The judgment of the municipal court is reversed and on remand the court is directed to enter judgment in favor of Ameriko-Omserv. Ameriko-Omserv is entitled to costs on appeal.

Lillie, P.J.

We concur: Woods, J.
 Neal, J.

B091613 Phillips, et al. (Not for Publication)
 v.
 Unocal Corp., et al.

The judgment is affirmed. Costs on appeal are awarded to respondents.

Woods, J.

We concur: Johnson, Acting P.J.
 Neal, J.

DIVISION SEVEN (Continued)

B095356 Waschek (Certified for Publication)
v.
State of California

The order granting respondents a "new trial" is reversed. The matter is remanded to the trial court with directions to issue an order granting summary judgment to DMV. Costs on appeal are awarded to appellant (DMV).

Woods, Acting P.J.

I concur: Neal, J.
I concur in the judgment only: Johnson, J.

B097633 Bomel Construction Co. (Not for Publication)
v.
Peck-Fager Corp.

That part of the judgment finding Peck-Fager obligated to indemnify Bomel is affirmed. That part of the judgment awarding Bomel \$150,000, \$37,500 in interest and costs and attorney's fees in the sum of \$23,561 is reversed and the cause is remanded to the trial court with directions to redetermine those amounts consistent with the views expressed in the opinion herein. Each party to bear its own costs on appeal.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.

B098164 Cheyovich et al. (Not for Publication)
v.
San Marino Unified School District, et al.

Since we have not been presented with an appealable order, and no circumstances have been advanced which would justify treating this appeal as a writ petition, the appeal is dismissed. Respondents shall have costs.

Lillie, P.J.

We concur: Woods, J.
Neal, J.

DIVISION SEVEN (Continued)

B109011 Tile Trends (Not for Publication)

V.

Dale Poe Development

The order denying Tile Trends motion for attorney's fees is affirmed. The order denying Tile Trend's request for mediation costs is vacated and remanded to the trial court. On remand the trial court may, in exercise of its discretion, either grant or deny Tile Trends' request for mediation expenses, but in any event the court must disclose the reasons for its decision. Each party is to bear its own costs on appeal.

Lillie, P.J.

We concur: Woods, J.

Neal, J.

B114413 Keith M. (Not for Publication)

V.

Superior Court, Los Angeles County

(Los Angeles County Dept. of Children & Family Services, r.p.i.)

The petition is denied on the merits.

Lillie, P.J.

We concur: Johnson, J.

Neal, J.

B112265 People (Not for Publication)

v.

Kasra T.

The order is affirmed.

Lillie, P.J.

We concur: Johnson, J.

Neal, J.

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DIVISION SEVEN (Continued)

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That portion of the juvenile court's order finding appellant waived his statutory and constitutional rights to supplemental petition proceedings as provided in Welfare and Institutions Code section 777 is vacated. As modified, the order under review is affirmed.

Lillie, P.J.

We concur: Johnson, J.
 Woods, J.